

9-1



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: PLANNING COMMISSION

FROM: LEONARD F. MANSELL, Planner III

DATE: MARCH 10, 2005

SUBJECT: General Plan Conformity Report for the abandonment of a portion of Upper Lopez Canyon Road – County File No. SUB2004-00125
(RECOMMEND RECEIVE AND FILE)

This is to advise the Planning Commission that the San Luis Obispo County Department of Planning and Building has acted on the above referenced request for General Plan conformity review. Attached is a copy of the staff report for your information.

On the date of determination referenced in the attached staff report, the Department of Planning and Building found the proposed road abandonment in conformity with the applicable provisions of the General Plan.



"Making a Difference"

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COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT

MEETING DATE MARCH 10, 2005 DETERMINATION DATE JANUARY 4, 2005	CONTACT/PHONE LEONARD F. MANSELL (805) 781-5199	APPLICANT RIGHETTI BROS.	FILE NO. SUB2004-00125
SUBJECT Determination of conformity with the General Plan for the abandonment of the last 2.3 mile Right-Of-Way of UPPER LOPEZ CANYON ROAD . The project is located in the RURAL area of the LOS PADRES planning area.			
RECOMMENDED ACTION The proposed vacation of the last 2.3 mile portion of UPPER LOPEZ CANYON ROAD is in conformity with the County General Plan			
ENVIRONMENTAL DETERMINATION Not required for conformity reports			
LAND USE CATEGORY RURAL LANDS AGRICULTURE OPEN SPACE	COMBINING DESIGNATION SRA,GSA	ASSESSOR PARCEL NUMBER 070,321,006	SUPERVISOR DISTRICT(S) 4
PLANNING AREA STANDARDS: <i>There are not any area standards that apply to this action.</i>			
EXISTING USES: N/A			
SURROUNDING LAND USE CATEGORIES AND USES: North: OPEN SPACE/RURAL LANDS/AGRICULTURE East: RURAL LANDS/AGRICULTURE South: OPEN SPACE/RURAL LANDS/AGRICULTURE West: OPEN SPACE/RURAL LANDS AGRICULTURE			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: SLO County Parks & Recreation Los Padres National Forest Service			
TOPOGRAPHY: MOUNTAINOUS		VEGETATION: FOREST/CHAPARRAL	
PROPOSED SERVICES: Water supply: N/A Sewage Disposal :N/A: Fire Protection: CDF		ACCEPTANCE DATE: SEPTEMBER 14, 2004	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

PROJECT DESCRIPTION

The land owners and the Government Agencies (California Department of Forestry & Fire, County Department of Fire, County Sheriff, U.S. Forest Service) that have property along the 2.3 miles of unmaintained right of way along Upper Lopez Canyon Road past Big Falls Canyon have been requesting the County to abandoned this right of way since 1989. Since that time the increased use of wilderness land and the encroachment onto private property by the use of heavy-duty four wheel drive vehicles has created dangerous health and safety issues. This action is being taken to remove the County Right-of-Way on Upper Lopez Canyon Rd. 2.3 miles past Big Falls Canyon. The County Maintenance of this Right-of-Way stops at Big Falls Canyon. A gate restricting public vehicular access was previously proposed in a meeting May 27, 1999 by the Public Agencies (listed) and the Private Landowners along this length of Upper Lopez Canyon Road. Emergency Agencies will retain vehicular easement over this right of way along with County Parks and Trails, who will retain easements for hiking and equestrian trails.

GENERAL PLAN CONFORMITY

When the disposal of real property, in the form of public right-of-way or private easement, within the unincorporated area, the proposal must be evaluated for consistency with the county General Plan before the action is authorized. Pursuant to Government Code section 65100, the Planning Department is authorized to prepare and issue conformity reports that are required by Government Code section 65402. This conformity report is being prepared because this project requires a determination of conformity with the county general plan.

The determination of conformity is to be based on the County General Plan including the text, standards, programs, and maps contained therein. Factors that are listed in the Framework for Planning, Part I of the Land Use Element that may be considered in determining conformity include, but are not limited to the following:

1. The proposed project bears a reasonable relationship to pertinent policies and mapped locations of the most applicable General Plan elements, specific plan or facility master plan, because emergency access, hiking and equestrian trail easements will be retained
2. The project is consistent with the goals, objectives and policies of the Land Use Element, and any other applicable General Plan Element.

The vacation of this right-of-way/easement meets the factors as set forth in the Land Use Element as enumerated above.

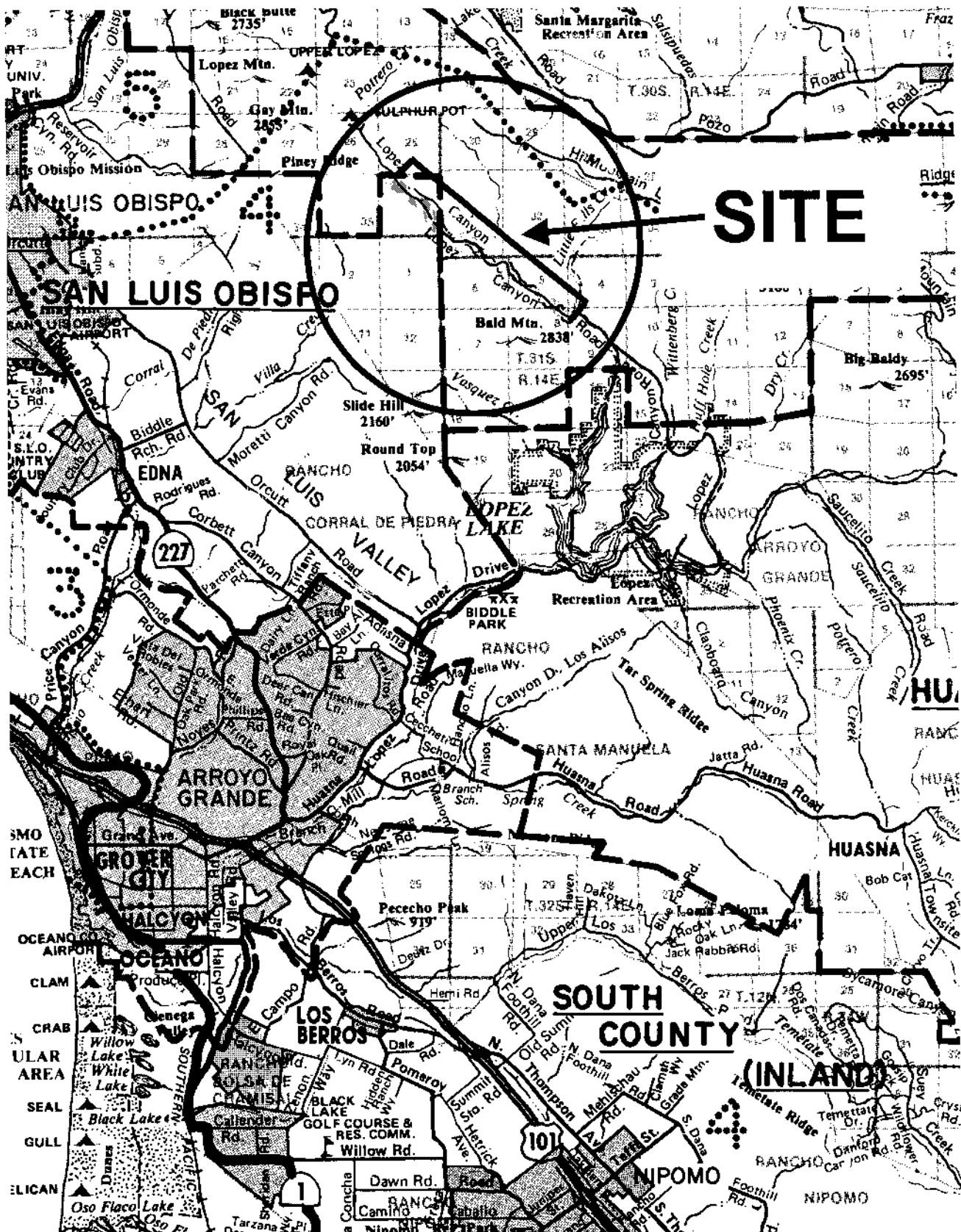
DETERMINATION AND FINDINGS

The proposed vacation (as shown in the Exhibit) is in conformity with the county General Plan based on the following findings:

- A. The proposed vacation is in conformance with the Land Use Element because this right-of-way providing ingress/egress is not needed for circulation. Emergency access & easements for trails will be maintained.
- B. The proposed vacation does not conflict with other elements of the County General Plan. The use of the site for recreation and emergency access is consistent with the County General Plan and any applicable Specific Plans.

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SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

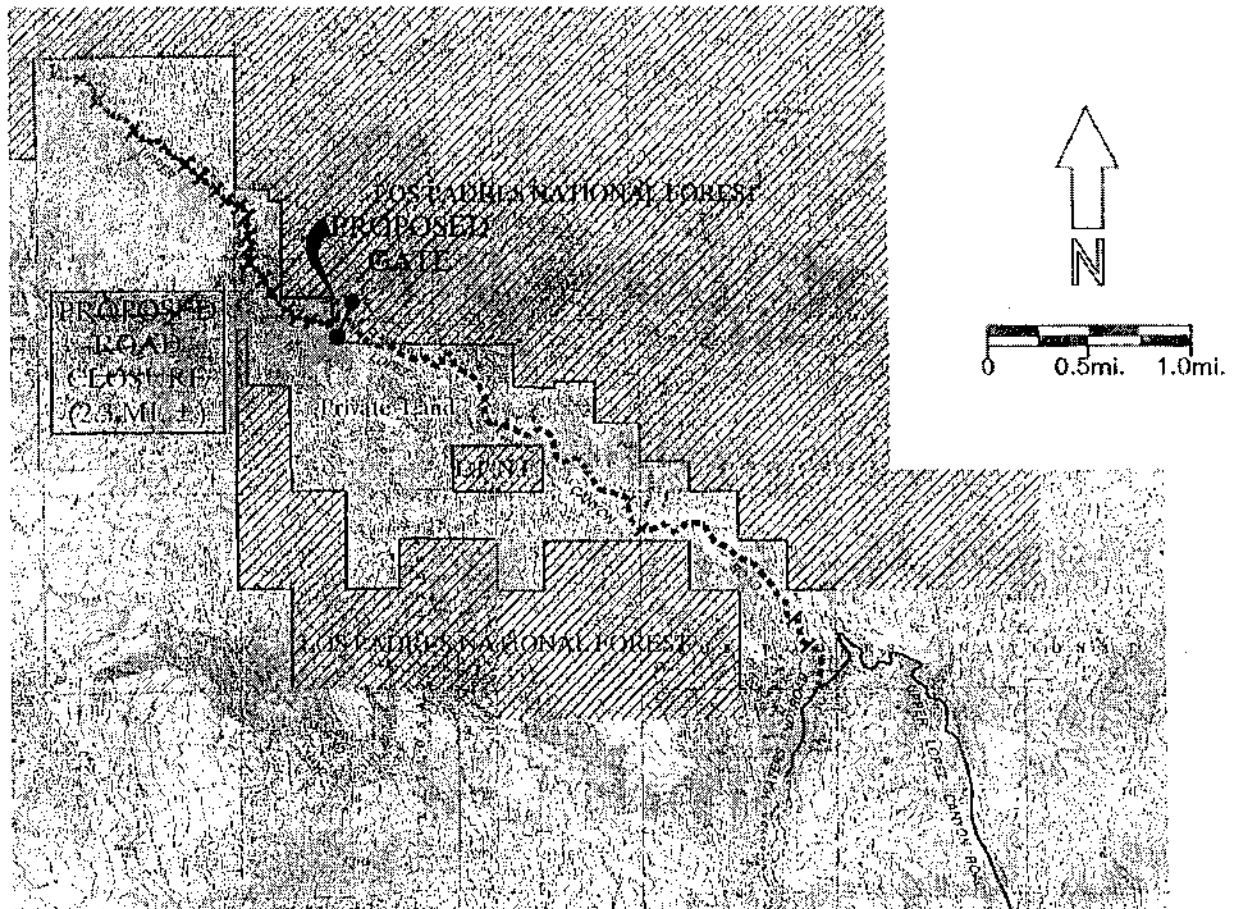
ROAD ABANDONMENT REQUEST
RIGHETTI SUB2004-00125



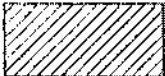





EXHIBIT

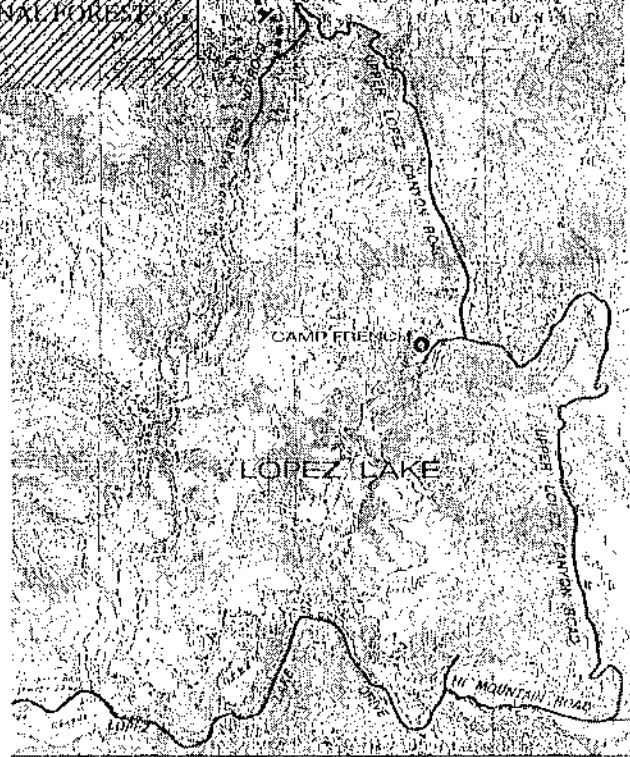
SITE PLAN

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LEGEND

-  LOS PADRES NATIONAL FOREST
-  PAVED ROAD
-  GRAVEL ROAD
-  PROPOSED CLOSURE
-  PROPOSED GATE
-  CREEK CROSSING



PROJECT

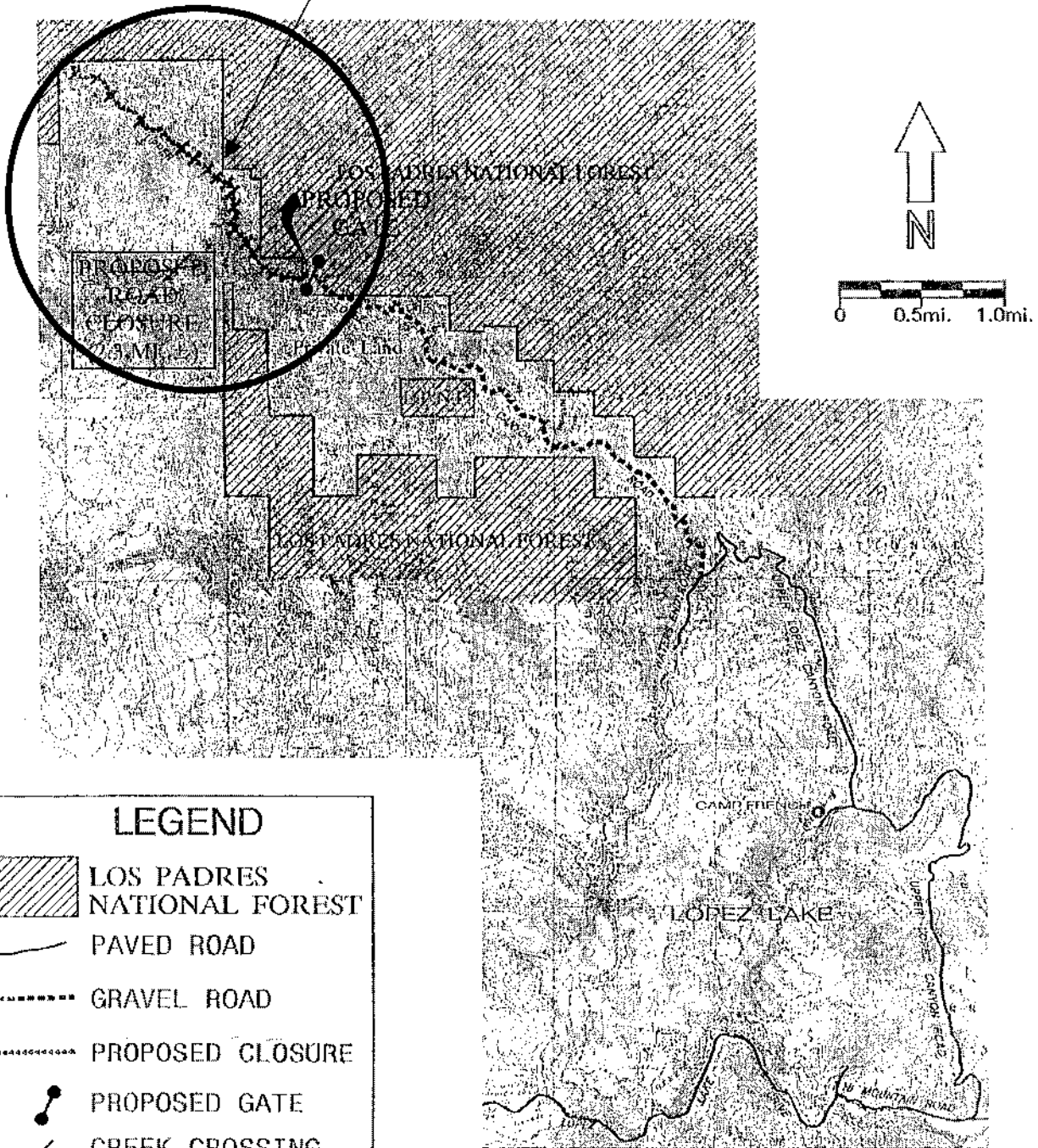
ROAD ABANDONMENT REQUEST
RIGHETTI SUB2004-00125



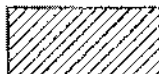





EXHIBIT

PROPOSED GATE

Right of Way
to be abandoned



LEGEND

-  LOS PADRES NATIONAL FOREST
-  PAVED ROAD
-  GRAVEL ROAD
-  PROPOSED CLOSURE
-  PROPOSED GATE
-  CREEK CROSSING

PROJECT

ROAD ABANDONMENT REQUEST
RIGHETTE SUB2004-00125



EXHIBIT

ABANDONMENT

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United States
Department of
Agriculture

Forest
Service

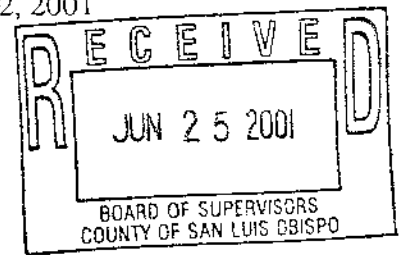
Los Padres National Forest
Santa Lucia Ranger District

1616 North Carlotti Drive
Santa Maria, CA 93454

File Code: 1500

Date: June 22, 2001

San Luis Obispo Supervisor Katcho Achadjian
c/o Clerk of the Board
County Government Center, Rm 370
San Luis Obispo, CA 93408



Dear Katcho:

On May 27, 1999 your office facilitated a meeting where issues concerning the Upper Lopez Canyon road were discussed. Representatives from the Forest Service, County, State, and private landowners attended the meeting. During and after the meeting, a consensus was reached for installation of a gate past Big Falls to close the road to public traffic (please refer to the May 27, 1999 meeting notes). The gate has not been installed. The difficult situation in Upper Lopez Canyon still exists and if anything, has gotten worse.

The need to gate the Upper Lopez road revolves around motorized access in the wilderness, conflicts with private property, and the lack of emergency access. Incidences of illegal campfires, most of which occur thru trespass on private property, continue to be a problem. As we approach the fire season, there is serious concern about emergency access should a fire occur in the canyon. The Upper Lopez Canyon road past Big Falls is in extremely poor condition and dangerous to vehicle travel. The road has become impassible to nearly all vehicles with the exception of heavy-duty four-wheel drives. Washouts and drop-offs present serious hazards to vehicle travel. Emergency access for fire suppression and rescue is seriously limited. Recently, a Forest Service Fire Patrol vehicle became stuck near one of the river crossings.

We recognize that San Luis Obispo County has jurisdiction over the Upper Lopez Road. In order to eliminate motorized intrusion into the wilderness, the Forest Service supports closing the road to motorized vehicles past the Big Falls area, rather than upgrading the road to allow emergency vehicle travel. Gating the road would still allow non-motorized access past the Big Falls area to the National Forest, and would allow private landowner access. Restricting vehicle access would reduce the need to maintain the road, reduce the incidence of illegal fires on private property, lower the threat of wildfire occurring in the area, and halt the intrusion of motorized vehicles into the wilderness. The Forest Service is requesting San Luis Obispo County install a gate and close Upper Lopez Canyon road as discussed during and after the 1999 meeting.

We have received a copy of the February 20, 2001 letter you sent to Susan Clark (Subject: Private Gates on County Roads). If non-motorized access does not meet the county's obligation when holding a right-of-way, perhaps the Forest Service or another entity could hold the right-of-way as a non-motorized public access (still allowing for private landowners' vehicular access).



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Your review of the situation is appreciated. Please feel free to contact me at 925-9538.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Kathleen Phelps', written in dark ink.

KATHLEEN PHELPS
District Ranger

cc Chuck Clark
Jackie Estes

CDF/SAN LUIS OBISPO COUNTY FIRE DEPARTMENT

Dan Turner, Chief

General Information 805/543-4244

FAX 805/543-4248

635 N. Santa Rosa • San Luis Obispo • California 93405

September 11, 2001

Supervisor Khatchik "Katcho" Achadjian
Board of Supervisors
County Government Center, Room 370
San Luis Obispo, CA 93408-2040

Re: Upper Lopez Canyon Road Issues

Dear Supervisor Achadjian,

The California Dept. of Forestry and Fire Protection (CDF) and the San Luis Obispo County Fire Department are responsible for responding to all fires, medical aids and rescues within Upper Lopez Canyon. Additionally, the United States Forest Service (USFS) is mutually responsible for wildland fire protection. Issues in the canyon as they relate to CDF's mission are illegal campfires, medical emergencies on private property, emergency vehicle access, and poor radio communications.

Over the years, CDF has responded to illegal campfires, wildfires, and medical aids in Upper Lopez Canyon. Emergency incidents in the canyon up to the Big Falls trailhead are nominally accessible in CDF's emergency vehicles. Generally speaking, four wheel drive vehicles are required on a year round basis. Access during the rainy season is often non-existent. Radio communications are adequate only from vehicle radios, hand held radios and cell phone communications are non-existent. Helicopter landing zones are minimal.

Due to the geographical nature of Upper Lopez Canyon, CDF considers access up to the Big Falls trailhead as tolerable; however, access beyond the Big Falls trailhead is another story. The road beyond Big Falls no longer exists as in the past. The road continues for two miles beyond Big Falls, through private property until it reaches the USFS boundary. Access in several locations is limited to very small four-wheel drive vehicles. Currently, none of CDF's emergency vehicles meet such limited criteria. Campers access this portion of the canyon by OHV's and small four-wheel drive vehicles such as Jeep CJ5's. Campers build illegal campfires. Absentee owners often inadequately post



PROVIDING COOPERATIVE FIRE PROTECTION AND RESCUE SERVICES
TO THE CITIZENS OF SAN LUIS OBISPO COUNTY



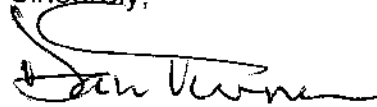
Supervisor Khatchik Achadjian
September 11, 2001
Page 2

private property; or, campers choose to ignore the signs. Many campers think they are on USFS land. Without civilian help, emergency responders access this portion of the canyon "on foot". Radio communications "on foot" are non-existent; emergency responders are limited in the amount and type of equipment they may need.

Closing the road (gate) beyond Big Falls will preclude most if not all of the illegal campfires in that portion of the canyon. Since 1999, CDF has patrolled this portion of the canyon five times, during which illegal campfires were discovered. All of these campfires were attributed to OHV campers. Installing a gate will reduce the potential for emergency responses to this area of the canyon.

If access beyond Big Falls is not closed (gated), CDF recommends the road be maintained to a level that allows public safety agencies reasonable access, the same level of access afforded those areas below the Big Falls trailhead.

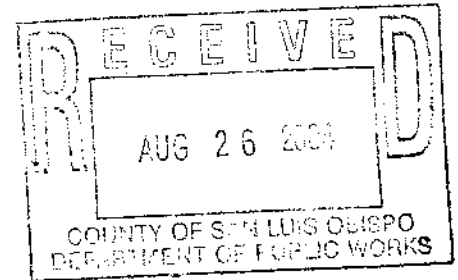
Sincerely,

A handwritten signature in black ink, appearing to read "Dan Turner". The signature is fluid and cursive, with a large initial "D" and "T".

DAN TURNER, Chief

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CARMEL & NACCASHA LLP
1023 Nipomo Street Suite 100A
San Luis Obispo, California 93401
Telephone: 805-546-8785
Facsimile: 805-546-8015



August 24, 2004

VIA HAND DELIVERY

Tim Smith
County Right Of Way Agent
San Luis Obispo County
County Government Center
San Luis Obispo, CA 93401

**Re: Upper Lopez Canyon Road
Summary Vacation**

Dear Mr. Smith:

This firm represents all the property owner's with land abutting the last 2.3 mile section of Upper Lopez Canyon Road (the "Road") located northwest of the entrance to the Big Falls trail, who are seeking formal County abandonment of the Road. As you are aware, there has been a continuing dialog between the County and affected property owner's regarding abandonment of the Road since 1989. We have contacted the vast majority of the residents along the last five (5) miles of Upper Lopez Canyon Road and there is unanimous support for County abandonment of the Road. Abandonment is also strongly supported by the California Department of Forestry and Fire Protection and the San Luis Obispo County Fire Department ("CDF"), the San Luis Obispo County Sheriff's Department, and the U.S. Forest Service ("USFS").

This letter is a formal request on behalf of our clients that the County promptly initiate abandonment/vacation proceedings for the Road, pursuant to California Streets and Highways Code § 8330 et seq. It is important to note that the County Board of Supervisors formally terminated all maintenance of the Road on September 25, 2001, pursuant to Resolution No. 2001-386, although there had been no County maintenance of the Road for many years prior to formal maintenance termination. The Road clearly meets the criteria for summary vacation set forth in Streets and Highways Code § 8330 et seq. The Road has been impassible for normal vehicular travel for at least the past five (5) consecutive years and no public money has been expended for maintenance of the Road during that period (S&H Code § 8331). The Road passes through 2.3 miles of private property and dead-ends at the USFS wilderness area; the USFS prohibits motorized vehicular access to the wilderness area through the Road. Except for owners accessing their land, there is no legitimate purpose for public vehicular use of the Road. Therefore, the Road is an excess right of way not required for a street or highway purpose (S&H Code § 8334(a)).

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Mr. Tim Smith
RE: Upper Lopez Canyon Road
August 26, 2004
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It is not the intent of this letter to detail the many additional reason that all of the persons and agencies most affected by public use of the road seek its immediate abandonment. Notwithstanding, there are continuing problems with heavy-duty four wheel drive vehicles packed with party-goers, using the Road to access (i.e.. trespass on) private property and the wilderness area for illegal campfires, camping and partying. A fire in the Upper Lopez Canyon Area would be disastrous. Prompt abandonment will substantially reduce the threat of wildfire occurring in the area, reduce the incidence of illegal fires and trespassing on private property and will halt the illegal intrusion of motorized vehicles into the wilderness area.

In light of the fifteen (15) year history of this abandonment request, we asked that it be agendized for consideration by the Board of Supervisors as soon as possible. As you are aware, the process begins with a General Plan Conformity Report by the San Luis Obispo County Planning Commission, pursuant to Government Code Section 65402. Please advise us as soon as possible of the amount of money we will need to deposit with the County for processing the Conformity Report. It should be noted that USFS has requested that the County reserve a small pedestrian and equestrian public access easement for non-motorized public access to the wilderness area. Our clients have no objection to this proposed reservation.

We would greatly appreciate your prompt attention in this matter. In this regard, I would be glad to assist you in any way in moving this matter along expeditiously. Please call if you have any questions.

Sincerely,

CARMEL & NACCASHA



Timothy J. Carmel

TJC:rjl

cc: Katcho Achadjian, Supervisor District 5
Pat Hedges, Sheriff
Dan Turner, Chief, CDF
Kathleen Phelps, District Ranger USFS,
Clients

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